



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/395,270 09/13/99 PELOSI

F 4451-18

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PM82/1129

EXAMINER

JOHNSON, B

ART UNIT

PAPER NUMBER

3634

DATE MAILED:

11/29/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/395,270

Applicant(s)
Pelosi

Examiner
Blair M. Johnson

Group Art Unit
3634



☒ Responsive to communication(s) filed on Sep 28, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-10 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-10 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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1. Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman.

Wyman discloses a polymer backing having a double layer of adhesive 10,11, and release films therefor 12,13. It would have been well within the purview of one of ordinary skill in the art to first place the backing on the underlying surface, carpet, concrete, etc., and then place the top carpet or rug thereon, such being an obvious choice of sequence of steps. Furthermore, using different types and/or strengths of adhesive for the different sides of the backing would have been obvious so as to better adhere to the intended surfaces. This backing is applicable to carpets, rugs or carpet tiles. The thickness of the backing is also an obvious variant depending on the application surface, carpet to be used, etc.

2. Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman in view of SIGA brochure.

While Wyman primarily explicitly teaches applying a rug to a carpet, using a backing having a release sheet to mount a carpet to a floor is clearly well known as evidenced by SIGMA. Based on this teaching, it would have been obvious to modify Wyman whereby his backing is used to attached a carpet to a floor surface. The other teachings of Wyman are discussed above.

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman as applied above, and further in view of Shaw bulletin No. 82.

Shaw indicates that his backing sheet may be attached to existing carpets as well as new or existing concrete slabs, page 1. While it is considered that such is obvious, as discussed above,

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Shaw provides further evidence of such and applying the backing of Wyman to a concrete surface would have been obvious in view thereof.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman, either alone or in view of SIGA, as applied above, and further in view of Murphy et al '910.

Murphy discloses a backing sheet comprising various non-woven polymers, column 2, which indicates that a woven backing, as in Wyman, is not the only means by which the backing can be constructed. It would have been obvious to modify Wyman to have such a backing as an obvious matter of choice of design.

5. Claims 1-4 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaw Bulletin No. 82.

Shaw discloses a backing system which uses pressure sensitive adhesive which has been applied to the backing which adheres to the subfloor and the carpet. The top surface of the backing has a plastic release liner (page 002, left column). The backing may be used over existing carpets or concrete (page 002, right column). This reference contains separate directions for using the backing system with sheet carpet (pages 002-007) and carpet tiles (pages 008-014). The method clearly includes the steps in claim 1 of: providing a backing having adhesive on at least one side; placing the sheet on a subfloor; providing a carpet; placing the carpet on the backing.

6. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw Bulletin No. 82 in view of Wyman.

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The backing of Shaw is comprised of a material which provides a pressure sensitive adhesive on both sides thereof. It is not clear if the adhesive properties are the result of coating each side separately. However, Wyman does disclose providing two separate layers of adhesive 10,11, to the backing. While they are of the same strength, modifying one of the adhesives to be of lesser strength would have been obvious since different holding powers are required due to the different surfaces to which the backing is to be attached. Using an adhesive of lesser strength on one side would be motivated by the desire to make the backing easier to work with, easier to remove when necessary, and less expensive. In view of this teaching, it would have been obvious to modify Shaw to have two separate layers of adhesive of different strengths.

Wyman further discloses plastic material for his backing, column 3, lines 50-61, which has obvious advantages. While the material from which the Shaw backing is constructed is not disclosed, using plastic as taught by Wyman would have been obvious due to the clear advantages plastic has in such a use. The thickness would have been a design choice obvious to one of ordinary skill in the art as a result of routine experimentation.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw Bulletin No. 82 in view of Murphy et al '910.

Murphy et al '910 is applied here as above.

8. Applicant's arguments have been fully considered but they are not persuasive.

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New grounds of rejection have been added herein which were not necessitated by Applicant's response. Consequently, this action is not made final. Also, the previous rejections have been repeated.

Applicant stresses that Wyman is for use with an existing carpet and not a subfloor. However, the definition of "subfloor" includes any surface to which an additional surface is added, thereby reading on an existing carpet so long as another carpet is placed thereon. Further, Applicant himself defines "subfloor" as an existing carpet, as evidenced by his claim 7. Also, modifying the thickness of the backing to provide optimum performance would have been well within the scope of abilities of one of ordinary skill in the art.

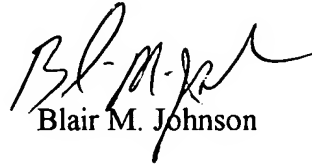
Regarding SIGA, both SIGA and Wyman provide a backing to attach a carpet to a subfloor. Consequently, they are analogous and modifying Wyman wherein the backing is laid on the subfloor before the carpet is attached is clearly taught by SIGA.

The teachings of Shaw is interpreted in the same manner in which SIGA has been interpreted.

A further rejection has been added above involving the Shaw reference.

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Lastly, concerning Murphy et al, he clearly states that his backing is formed by “conventional techniques”, column 2, line 52, and is made of polymers, column 2, lines 55-57. The Murphy et al backing has “one or more adhesive surfaces”, column 2, lines 21-22. Based on these teachings, the Murphy et al reference is clearly analogous.

A handwritten signature in black ink, appearing to read "Blair M. Johnson", is positioned above the printed name.

Blair M. Johnson

Primary Examiner
Art Unit 3634

November 28, 2000
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